

Jared Blumenfeld, Regional Administrator, EPA Region 9 signed the following final rule on February 11, 2014, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the final rule, it is not the official version of the final rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDsys website (<http://fdsys.gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-R09-OAR-2013-0687.

Billing code: 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2013-0687; FRL-]**

**Approval and Promulgation of Implementation Plans;  
State of California; 2012 Los Angeles County State  
Implementation Plan for 2008 Lead Standard**

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Final rule.

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**SUMMARY:** EPA is approving a State implementation plan revision submitted by the State of California to provide for attainment of the 2008 lead national ambient air quality standard in the Los Angeles County nonattainment area. The submitted SIP revision is the *Final 2012 Lead State Implementation Plan - Los Angeles County*. Specifically, EPA is approving the emissions inventory, attainment demonstration, the reasonably available control measures/reasonably available control technology demonstration, reasonable further progress demonstration, and contingency measures as meeting the requirements of the Clean Air Act and EPA's implementing regulations for the lead NAAQS.

**DATES:** Effective Date: This rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: You may inspect the supporting information for this action, identified by docket number EPA-R09-OAR-2013-0687, by one of the following methods:

1. Federal eRulemaking portal, <http://www.regulations.gov>, please follow the online instructions; or,
2. Visit our regional office at, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Docket: The index to the docket for this action is available electronically on the [www.regulations.gov](http://www.regulations.gov) website and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., voluminous records, large maps, copyrighted material), and some may not be publicly available at either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR**  
**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 947-4192, [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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### **I. Background**

#### **A. *The Lead NAAQS***

Under the Clean Air Act (CAA), EPA must establish national ambient air quality standards (NAAQS) for six criteria pollutants, including lead. Lead is generally emitted in the form of particles, which end up being deposited in water, soil, and dust. People may be exposed to lead by inhaling it, or by ingesting lead-contaminated food, water, soil, or dust. Once in the body, lead is quickly absorbed into the bloodstream and can result in a broad range of adverse health effects. These include damage to the central nervous system, cardiovascular function, kidneys, immune system, and red blood cells. Children are particularly vulnerable to lead exposure, in part because they are more likely to ingest lead and in part because their still-developing bodies are more sensitive to the effects of lead. The harmful effects to children’s developing nervous systems

(including their brains) arising from lead exposure may include IQ loss, poor academic achievement, long-term learning disabilities, and an increased risk of delinquent behavior.

EPA first established a lead standard in 1978 at 1.5 micrograms per meter cubed ( $\mu\text{g}/\text{m}^3$ ) as a quarterly average.<sup>1</sup> Based on new health and scientific data, EPA revised the federal lead standard to 0.15  $\mu\text{g}/\text{m}^3$  and revised the averaging time for the standard on October 15, 2008 (see 73 FR 66964, November 12, 2008). A violation of the standard occurs when ambient lead concentrations exceed 0.15  $\mu\text{g}/\text{m}^3$  averaged over a 3-month rolling period.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA generally requires EPA to complete the initial area designations process within two years of promulgating a new or revised NAAQS. Sixteen areas were designated nonattainment for the 2008 lead NAAQS, effective December 31, 2010 (see 75 FR 71033). Based on ambient air quality data for the years 2007-2009, a portion of Los Angeles County (excluding the high desert areas, San Clemente and Santa Catalina Islands) was identified as an area that did not meet the 2008 lead NAAQS.<sup>2</sup>

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<sup>1</sup> See 43 FR 46246, October 5, 1978.

<sup>2</sup> For an exact description of the Los Angeles County lead nonattainment area, see 40 CFR part 81.305.

Areas are required to attain the revised lead standard as expeditiously as practicable, but no later than five years from the date the nonattainment designation became effective. For the Los Angeles County lead nonattainment area, this date is December 31, 2015.

Attainment demonstration state implementation plans (SIPs) are due 18 months after the effective date of an area's designation. For the Los Angeles County lead nonattainment area, the SIP was due June 30, 2012. These SIPs should include emissions inventories, a reasonable further progress (RFP) demonstration, a reasonably available control measures/reasonably available control technology (RACM/RACT) demonstration, an attainment demonstration, and contingency measures. Control measures for the 2008 lead NAAQS need to be in place as expeditiously as practicable. In order for control measures to result in three years of monitored clean data by the attainment date, lead areas required to demonstrate attainment by December 31, 2015 should have had all necessary controls in place no later than November 1, 2012.<sup>3</sup> South Coast Rule 1420.1, "Emissions Standard for Lead from Large Lead-Acid Battery Recycling Facilities," was adopted by the South Coast Air

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<sup>3</sup> EPA will consider on a case-by-case basis the approvability of attainment demonstration SIPs where control measures are scheduled to be operational after November 1. An attainment SIP may be approvable even if the state does not anticipate having three full years of clean data by the attainment date. See *EDF v. EPA*, 369 F.3d 193 (2d Cir. 2004); *Sierra Club v. EPA*, 356 F.3d 296 (D.C. Cir. 2004) amended 2004 WL 877850 (D.C. Cir. 2004).

Quality Management District (SCAQMD or "District") on November 5, 2010.

***The Lead Nonattainment Problem in Los Angeles County***

Stationary sources of lead are generally large industrial sources, including metals processing, particularly primary and secondary lead smelters. Lead can also be emitted by iron and steel foundries; primary and secondary copper smelters; industrial, commercial and institutional boilers; waste incinerators; glass manufacturing; refineries; and cement manufacturing. The District determined that the primary causes of the nonattainment status of Los Angeles County are two large lead-acid battery recycling facilities, Exide Technologies located in the city of Vernon, and Quemetco, Inc. located in the City of Industry. These facilities receive used lead-acid batteries and other lead-bearing materials and recycle them, recovering the lead. Lead is recycled because of its value and to reduce toxic waste, and it is primarily used to manufacture new batteries.

Because regional ambient air lead concentrations indicate low ambient lead levels relative to the new lead NAAQS, and the only ambient levels exceeding the NAAQS were at sites near the lead-acid battery recyclers, SCAQMD's lead attainment strategy is focused on reducing directly-emitted lead from these two

sources.

**B. California's SIP Submittal and EPA Proposed Action**

On December 11, 2013 (78 FR 75293), based on EPA's review of the *Final 2012 Lead State Implementation Plan - Los Angeles County* (May 2012) ("2012 Los Angeles County Lead SIP") submitted by California, air quality monitoring data, and other relevant materials, EPA proposed to approve the State of California's attainment plan for the 2008 lead NAAQS, pursuant to CAA section 110(k)(3). The background for today's action is discussed in detail in EPA's December 11, 2013 proposed rulemaking and technical support document (TSD).

Our proposed approval of the attainment plan was based on EPA's finding that the area meets all lead NAAQS attainment plan requirements under CAA sections 172, 191, and 192. EPA's proposal to approve the State's attainment plan included SIP-approved control measures for secondary lead smelters. Implementation of these control measures has resulted in decreased emissions and the continued implementation of these control measures is expected to provide for attainment of the lead NAAQS by the applicable attainment date. EPA proposed to approve the attainment year emissions inventory submitted with the plan, as well as the RACM/RACT demonstration, the RFP demonstration, the attainment demonstration including modeling, and the contingency measures.

## **II. Public Comments and EPA's Response**

We received one public comment on our proposed rule. We summarize the comment below and provide our response.

*Comment:* The commenter expressed concern over the closing of Doe Run in Missouri. (Doe Run was the last primary lead smelter in the United States, located in Herculaneum, Missouri, and ceased smelting operations at the end of December).

*Response:* Our proposed rule concerned lead nonattainment in the Los Angeles area. The facility referred to by the commenter is not the subject of our proposed action, and the comment has no relevance to our proposed action.

## **III. EPA's Final Action**

For the reasons discussed in our December 11, 2013 proposal (see 78 FR 75293), EPA is approving California's attainment SIP for the Los Angeles County lead nonattainment area for the 2008 lead NAAQS. This SIP submittal addresses CAA requirements and EPA regulations for expeditious attainment of the 2008 lead NAAQS for the Los Angeles County lead nonattainment area.

For the reasons discussed in our proposed rulemaking, EPA is proposing to approve under CAA section 110(k)(3) the following elements of the South Coast lead attainment SIP:

1. the SIP's base year emissions inventory as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.117(e)(1);



2. the attainment demonstration, including air quality modeling, that demonstrates attainment as expeditiously as practicable, as meeting the requirements of CAA section 172(c) (1);

3. the RACM/RACT demonstration, as meeting the requirements of CAA section 172(c) (1);

4. the RFP demonstration, as meeting the requirements of CAA section 172(c) (2);

5. and contingency measures, as meeting the requirements of the CAA section 172(c) (9).

## **VI. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally

permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

**AUTHORITY:** 42 U.S.C. 7401 et seq.

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Dated:

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Jared Blumenfeld,  
Regional Administrator,  
EPA Region IX.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Part 52 Amended

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (xxx) to read as follows:

§ 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(xxx) The following plan was submitted on June 20, 2012, by the Governor's Designee.

(i) [Reserved]

(ii) Additional materials.

(A) South Coast Air Quality Management District.

(1) *Final 2012 Lead State Implementation Plan - Los Angeles County* (May 2012) ("2012 Los Angeles County Lead SIP"), adopted May 4, 2012.

(2) SCAQMD Board Resolution 12-11, dated May 4, 2012, adopting the 2012 Los Angeles County Lead SIP.

(B) State of California Air Resources Board.

(1) CARB Resolution 12-20, dated May 24, 2012, adopting the 2012 Los Angeles County Lead SIP.